

REMARKS

Claims 1-26 are pending in the present application. Claims 1-11, 13, and 15-26 have been rejected and claims 12 and 14 have been objected to.

Double Patenting

The Office has advised that should claim 12 be found allowable, claim 14 would be objected to as being a substantial duplicate. The Office argues that these two claims are duplicates or are so close in content that they both cover the same thing, despite a slight different in wording.

Applicant respectfully disagrees. Claim 12 recites a hose clamp containing an identification device. Claim 14 recites an identification system for a hose. Thus, the scope of these two claims is different: claim 12 covers a hose clamp whereas claim 14 covers an identification system. Thus, these two claims do not "cover the same thing" as argued by the Office. Accordingly, they are not substantial duplicates of each other and should not be rejected under the doctrine of double patenting if they are both found to be allowable.

Claim Rejections: 35 U.S.C. § 112

The Office has rejected claims 1-7, 9-11, and 15-26 under 35 U.S.C. § 112, second paragraph, for the reasons noted on pages 2-3 of the Office Action. Applicant respectfully traverses this rejection.

Many of the Office rejections focus on the lack of antecedent basis for the terms "hose" and "hose clamp." From the language used, it is apparent that the Office feels that once a term (such as "a hose clamp" or "a hose") is used in the claim, that further reference to that term must be made by using the term "said" (i.e., said hose) or using the entire phrase over (i.e., "the hose clamp"). Applicant respectfully disagrees. Once a term is used, it is not necessary to use such terminology based on mere grammatical rules for the English language. For example, once the term "a hose" is used, the skilled artisan would understand that a subsequent use of "the hose" would refer to the same feature. As another example, once the term "a hose clamp" is used, any subsequent use of the term "the clamp" would necessarily refer to the same feature (at least absent the existence of any other clamp in the claim).

Despite the above reasons why there is no lack of antecedent basis, Applicant has amended the claims as indicated above. These amendments have been made *solely* in an effort to expedite prosecution. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Claim Rejection: 35 U.S.C. § 102

The Office has rejected claims 1-4, 6-9, 11, 14-23, and 25-26 under 35 U.S.C. § 102(b) as being anticipated by Schweikert (U.S. Published Application No. 2003/006218), for the reasons noted on pages 4-5 of the Office Action. Applicant respectfully traverses this rejection.

To reject the claims as anticipated under 35 U.S.C. § 102(b) the Office must substantiate that the claimed invention

... was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

See 35 U.S.C. § 102(b) and M.P.E.P. § 2133. The Office, however, has not met this burden with respect to Schweikert.

Schweikert was published on April 10, 2003. The present application was filed on November 26, 2003, and claims priority of a provisional application filed on November 26, 2002. Thus, Schweikert was not described in a printed publication more than one year prior to the date on which the present application was filed.

Accordingly, the Office has not shown that Schweikert qualifies as prior art against the rejected claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Allowable Subject Matter

Applicant appreciates the acknowledgement that claims 5, 10, 12, 14, and 24 contain allowable subject matter and would be allowed if amended. At this stage in the prosecution, however, the pending grounds of rejection should be withdrawn for the reasons noted above. Thus, the claims should be allowed without any amendments.

CONCLUSION

For the above reasons, Applicant respectfully requests withdrawal of the pending grounds of rejection and allowance of claim 1-26.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

By



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